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Subject: Update on Two Lawsuits (Ag and Farmworker Advocacy) against EPA for AEZ

Not much new to report at this time regarding the State AG Lawsuit against the EPA for the AEZ. We have not been told anything from EPA OPP, other than they are in consultation with attorneys and EPA management. Please be reminded that I sent around the initial information last Dec. 18 (see below).

Besides the State Lawsuit, several farmworker advocacy organizations have also filed Injunctive Relief against EPA over the revised AEZ. This latter one resulted in a 14 day Restraining Order that moved the AEZ effective

date from Dec. 29, 2020 to Jan. 12, 2021. More information regarding this latter court action are found in the links below.

Farmworker Justice News (2021), Migrant Clinicians Network (2021), and EarthJustice (2020):

<https://www.farmworkerjustice.org/news-article/earthjustice-and-farmworker-justice-file-complaint-against-epas-rollback-of-application-exclusion-zone-aez/>

<https://earthjustice.org/news/press/2020/groups-challenge-epas-move-to-gut-pesticide-spraying-safeguards>

<https://www.migrantclinician.org/blog/2021/jan/mcn-joins-lawsuit-stop-trump-administration%E2%80%99s-rollback-aez-critical-pesticide-rule.htm>

Farmworker Organizations Show Cause for Relief:

https://earthjustice.org/sites/default/files/files/20cv10645_order_12.18.2020.pdf

Farmworker Organizations Case for Injunctive Relief:

https://earthjustice.org/sites/default/files/files/complaint_aez_12.16.20_final.pdf

https://earthjustice.org/sites/default/files/files/14.1_mem_in_support_of_proposed_order.pdf

https://www.marylandattorneygeneral.gov/news%20documents/121720_complaint.pdf

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For pesticide information visit <http://www.epa.gov/pesticides/> or <http://npic.orst.edu/>

R5 Bed Bug Hotline at 888/644-2200 or bedbugs@umn.edu

To report environmental violations visit <https://www.epa.gov/pesticide-incidents>

Life Lesson: We do not stop playing because we grow old; we grow old because we stop playing.

Have a Bed Bug Free Day!!

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From: Baumgartner, Donald <baumgartner.donald@epa.gov>

Sent: Friday, December 18, 2020 7:33 PM

To:

Subject: State AGs [CA,NY,MD,IL,MN] File Lawsuit against EPA for AEZ

Five State Attorney Generals (from CA,NY,MD,IL,MN) have filed a combined lawsuit December 16, 2020 against the EPA for the revised WPS AEZ.

“This lawsuit challenges a U.S. Environmental Protection Agency regulation that needlessly increases the risk of exposure to harmful pesticides by permitting pesticide handlers to continue pesticide applications despite

the presence of farmworkers or other persons within the area immediately surrounding the application equipment.... But in October 2020, EPA issued a rule that significantly curtails the protections of the Application Exclusion Zone, threatening the health and safety of farmworkers, their families, and others. ... Plaintiffs the State of New York, State of California, State of Illinois, State of Maryland, and State of Minnesota therefore bring this action to vacate the Final Rule..."

https://www.marylandattorneygeneral.gov/news%20documents/121720_complaint.pdf

Thanks to Bethany Plewe of R10 for sharing this with us.

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From: Seneca, Roy <Seneca.Roy@epa.gov>

Sent: Friday, December 18, 2020 2:09 PM

To:

Subject: Greenwire (12-18) AGs say EPA rule boosts toxic exposure risk for farmers (Maryland)

AGs say EPA rule boosts toxic exposure risk for farmers

By [Marc Heller](#), E&E News reporter

Published: Friday, December 18, 2020

Attorneys general in California, New York and three other agricultural states are mounting a legal challenge to EPA's latest effort to ease worker protection standards for pesticides.

In a **lawsuit** filed in the U.S. District Court for the Southern District of New York, the state attorneys said regulations released by EPA in October would put workers, farmers and others at increased risk of exposure to dangerous weed killers and insecticides.

At issue are the "exclusion zones" EPA established at farms, aimed at preventing exposure to unprotected people. The zones, extending 100 feet around pesticide application sites, were added to the agency's worker protection standard in 2015, during the Obama administration.

EPA's final regulations remove provisions that apply to areas off the farm in question — areas that are too hard for states to enforce, the agency said.

Farmers and their family members are also exempt under the EPA rules. The agency has said the updated regulations will be more workable, while protecting people from potential exposure (*Greenwire*, Oct. 29).

In their complaint, the state attorneys called the regulation "unjustified and unwarranted" and said the agency's own cost-benefit analysis doesn't support the change.

The regulation, the states said, "needlessly increases the risk of exposure to harmful pesticides by permitting pesticide handlers to continue pesticide applications despite the presence of farmworkers or other persons within the area immediately surrounding the application equipment."

Other states joining the case are Illinois, Maryland and Minnesota.

In a statement, Maryland Attorney General Brian Frosh (D) suggested EPA is shirking its responsibility.

"It is EPA's job to protect farmworkers, their families and others who are exposed to pesticides. These regulations prioritize killing bugs over protecting people," Frosh said.

In New York, about 7.2 million acres — a quarter of the state — is covered by farms. Nearly 3 million gallons of liquid pesticides and 24.3 million pounds of solid pesticide were applied there in 2013, according to the complaint, citing the state Department of Environmental Conservation.

In California, the nation's leading farm state, 204.7 million pounds of pesticide were applied on 104.3 million acres cumulatively, the complaint said. That state changed its own worker protection standard in 2017 to align with EPA's 2015 regulations, meaning the new federal rules will create confusion, according to the lawsuit.

State agriculture departments have applauded EPA's changes, however, saying they'll clarify the rules and free state regulators of the difficult task of enforcing rules on off-farm property.

Other elements of the regulation would allow suspended pesticide applications to resume when unprotected individuals leave the exclusion zone.

The National Association of State Departments of Agriculture has supported EPA's moves. The American Public Health Association has opposed them.

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